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Agency Secretary
Cal/EPA



Department of Toxic Substances Control

700 Heinz Avenue, Suite 200
Berkeley, California 94710-2721



Arnold Schwarzenegger
Governor

December 7, 2004

CERTIFIED MAIL

Ms. Ellen Raber
Department Head
Environmental Protection Department
Lawrence Livermore National Laboratory
7000 East Avenue
Livermore, California 94550

Dear Ms. Raber:

On May 27 and 28, June 1-3, 2004, the California Environmental Protection Agency, Department of Toxic Substances Control (DTSC), conducted a Compliance Evaluation Inspection (CEI) of the Lawrence Livermore National Laboratory (LLNL) facility, located at 7000 East Avenue, Livermore, California. The enclosed report describes the findings of this inspection, including all violations and any actions that should be taken by the facility to correct the violations.

DTSC has received and reviewed LLNL's Responses to the 2004 CEI Summary of Violations (SOV), dated July 26, 2004 and August 16, 2004. DTSC's comments are incorporated in the inspection report.

In response to LLNL's request to re-classify Violation 1, treatment of hazardous waste in an unauthorized unit, DTSC has requested additional information to determine if LLNL's use of the sorting table would substantially alter the permit conditions or reduce the capacity of the facility to protect human health and the environment. DTSC will make a final determination on the classification of the violation upon receipt of the information from LLNL. An addendum report will be prepared for any changes to the inspection report.

The following Class I violations (Violations 3-5) which are described in this inspection report, were found subsequent to the inspection and were not listed in the SOV left with you at the end of the inspection.

Certifying Prohibited Waste for Land Disposal Without Meeting Treatment Standards

3. LLNL violated Health and Safety Code 25189.2 (a), and California Code of Regulations, title 22, section 66268.7.(a)(3), in that on or about June 9, 2004, a prohibited waste, Q86925/W209971, not meeting land disposal restrictions (LDR) treatment standards was shipped off-site and certified as meeting treatment standards for land disposal, to wit:

Based on the analytical results for W209971 dated November 14, 2002, the hazardous constituents for toluene and p- & m- xylene at 120 mg/kg and 280 mg/kg, were not below 10 mg/kg and 30 mg/kg, respectively, as specified in the table "Treatment Standards for Hazardous Wastes", California Code of Regulations, title 22, section 66268.40.

Although W209971 did not meet LDR treatment standards, the shipment to Envirocare on June 9, 2004 was accompanied with a certification, " I certify under penalty of law that I personally have examined and am familiar with the waste through analysis and testing or through knowledge of the waste to support this certification that the waste complies with the treatment standards specified in 40 CFR Part 268 Subpart D. I believe that the information is true, accurate, and complete..."

Corrective Action

On July 20, 2004, Ms. Salvo informed me via electronic mail that Envirocare was contacted. Waste W209971 has not been placed into the ground yet, and Envirocare has put a hold on W209971.

Within 30 days of receipt of this report, LLNL shall submit a procedure and training that would be given to employees to ensure timely and accurate hazardous waste characterization, interpretation and validation of analytical results. LLNL shall indicate the necessary steps being taken to prevent the same incident from happening in the future. In addition, LLNL shall submit to DTSC, documentation that Envirocare has treated waste W209971 to meet LDR treatment standards prior to disposal into the land.

Failure to Comply With Waste Analysis Plan

4. LLNL violated Health and Safety Code 25202 (a), California Code of Regulations, title 22, section 66270.30 (a) and 66264.13, and HWFP, Part IV. 5.p in that on or about May 18, 2004, LLNL failed to make an accurate waste determination on waste W209971, to comply with land disposal restrictions requirements, to wit:

LLNL completed a Waste Disposal Requisition (WDR) Change Request on May 18, 2004, indicating that hazardous concentrations of: tetrachloroethylene; trichloroethylene; benzene; toluene; 1,1,1-trichloroethane; methylene chloride and 2-butanone (methyl ethyl ketone) were below 5 mg/kg. However, analytical results for W209971, showed that concentrations of toluene and p- & m- xylene were 120 mg/kg and 280 mg/kg, respectively. Treatment Standards per California Code of Regulations, title 22, section 66268.40 are: 10 mg/kg for toluene and 30 mg/kg for p- & m- xylene.

Corrective Action

Within 30 days of receipt of this report, LLNL shall submit to DTSC, procedure and training to be given to employees to ensure timely and accurate hazardous waste characterization, interpretation and validation of analytical results. LLNL shall indicate the necessary steps being taken to prevent the same incident from happening in the future.

Storage Greater Than One Year

This violation is a repeat of the 2000, 2002 and 2003 CEI

5. LLNL violated Health and Safety Code, sections 25202 (a) and 25188, California Code of Regulations, title 22, section 66270.30 (a) and Hazardous Waste Facility Permit (HWFP) ,Parts III.2. (b) and IV.10 (a) in that on or about April 30, 2002 through May 21, 2004, LLNL stored Q63853/W209973 for greater than one year in Area 612-1A, without authorization, to wit:

LLNL received Q63853/W209973 at the permitted area on April 30, 2001. Based on generator information provided on the WDR, the waste did not meet LDR treatment standards and were placed on the Site Treatment Plan. Analytical results dated June 24, 2002 (sample collected on February 25, 2002) showed that the waste met LDR treatment standards, as indicated on a WDR Change Request completed on May 19, 2004.

LLNL submitted a notification of waste stored more than one year for Q63853/W209973 on May 21, 2004, two years after the one year limit was exceeded.

Corrective Action

Effective immediately, all requests for continued storage of mixed wastes meeting LDR standards shall be made to DTSC at least 30 days prior to reaching the one year allowable limit in the HWFP.

You are required by section 25185(c)(3) of the Health and Safety Code to submit a written response to the DTSC within 30 days describing the corrective actions that you have taken or propose to take to bring your facility into compliance. If you dispute any of the violations, you should explain your disagreement in this written response. The issuance of this letter does not preclude DTSC from taking administrative, civil, or criminal action as a result of the violations noted in the report.

All pertinent information derived from the inspection, including documents, photographs, and sampling results, are included as attachments to the report, except copies of documents provided by your facility at the time of the inspection. In order to reduce copying and mailing costs, these have not been returned to you with the report; copies will be provided if you request them. This report will become a public document; you may request that any trade secret or facility security information be withheld from public disclosure. (See Health and Safety Code Section 25173 attached.)

If you wish to assert the trade secret privilege after you have reviewed the report, please provide specific answers to each of the following questions, for each item, within 10 days of receipt of this letter:

1. To what extent is there knowledge of the information conveyed by the photograph/document outside your business?
2. To what extent is there knowledge of the information conveyed by the photograph/document, by employees and others in your business?
3. To what extent have measures been taken to guard the secrecy of the information?
4. Is the information valuable to competitors? If so, why?
5. Has there been substantial monetary expenditure in the development of the

Ms. Ellen Raber
December 7, 2004
Page 5

information?

6. Could the information be easily and properly acquired or duplicated by others?

DTSC will review this information to determine if the information should be treated as trade secrets and notify you accordingly.

If you have any questions regarding this letter, or if you wish to meet with DTSC to discuss any questions or concerns you have with the inspection, the report, the violations, or the proposed corrective action, please call me at (510) 540- 3869.

Sincerely,

(Original signed by Patti Barni for Luz Castillo)

Luz Castillo
Senior Hazardous Substances Scientist
Statewide Compliance Division

Enclosure

Certified Mail No.: 7003 3110 0002 1908 6058

cc: Mr. Mohinder Sandhu, Chief
Department of Toxic Substances Control
8800 Cal Center Drive
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